

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

ANTHONY T. LEE, et al.,	)	
Plaintiffs,	)	
	)	
UNITED STATES OF AMERICA,	)	
Plaintiff-Intervenor	)	
and Amicus Curiae,	)	
	)	
NATIONAL EDUCATION ASSOCIATION, INC.,	)	CIVIL ACTION NO.
Plaintiff-Intervenor,	)	3:70cv846-T
	)	(WO)
v.	)	
	)	
MACON COUNTY BOARD OF EDUCATION, et al.,	)	
Defendants.	)	

**UNITED STATES MOTION TO FILE RESPONSE OUT OF TIME**

Counsel for the United States only recently received the orders and pleadings related to the petition of the Macon County Board of Education (“Board”) to for expedited approval to close the South Macon and the Washington Public Elementary Schools and open a new elementary school to be called the George Washington Carver Elementary School, and did not receive the June 27, 2005 Order to show cause why the petition should not be granted until after the July 15, 2005 deadline.

In a separate order also dated July 27, 2005, this Court ordered counsel for the United States to confer with counsel for all other parties and file “a proposal as to how the parties and the court should move the case toward a declaration of unitary status and for the eventual termination of this litigation.” Because of this involvement, the United States requests permission to file a response on the Board’s petition.

Accordingly the United States requests permission to file its response out of time.

Respectfully submitted this 1<sup>st</sup> day of August, 2005.

LAURA GARRETT CANARY  
United States Attorney

BRADLEY J. SCHLOZMAN  
Acting Assistant Attorney General  
Civil Rights Division

/s/Pauline A. Miller

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 1<sup>st</sup> day of August, 2005, I electronically served the foregoing *United States' Motion to File Response Out of Time* with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Deborah Hill Biggers (counsel for Macon County Board of Education); Fred D. Gray Jr., (counsel for Lee plaintiffs and NEA plaintiff-intervenor); Norman J. Chachkin (counsel for Lee plaintiffs); Reginald Sorrells (counsel for the Alabama State Department of Education); Lateefah Muhammad (counsel for applicant plaintiff-intervenors).

/s/Pauline A. Miller  
Pauline A. Miller